

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RONALD LEE ALLEN,

Plaintiff,

vs.

CLARK COUNTY DETENTION
CENTER, *et al.*,

Defendants.

Case No. 2:10-cv-00857-RLH-GWF

ORDER

Motion to Strike (#127) and
Motion for Copies (#129)

This matter is before the Court on Defendant Naphcare, Inc.'s Motion to Strike Plaintiff's Amended Civil Rights Complaint (#127), filed March 11, 2011; Plaintiff's Motion Reasserting Need to Have Court Order that Nevada Department of Corrections Restore Plaintiff's Copy Privileges (#129), filed March 14, 2011; Plaintiff's [Opposition] to Defendants' Motion to Strike Plaintiff's Amended Civil Rights Complaint (#130), filed March 21, 2011; and Defendant Naphcare's Reply to Plaintiff's [Opposition] to its Motion to Strike Plaintiff's Amended Civil Rights Complaint (#135), filed March 30, 2011.

DISCUSSION

1. Procedural History

On January 20, 2011, Judge Hunt granted Defendants' motion to dismiss and renewed motion to dismiss, but granted Plaintiff leave to file a motion to amend his complaint within four weeks from the date of the order. (*See* #89). Plaintiff appealed this order to the Ninth Circuit Court of appeals and the undersigned magistrate judge stayed this action and all pending deadlines until the Ninth Circuit ruled on Plaintiff's appeal. (#115). While his appeal was pending, on March 1, Plaintiff filed the amended complaint at issue in the present motion, but failed to seek leave of the Court to do so in a motion to

1 amend. (*See* #121). The Ninth Circuit dismissed Plaintiff's appeal in part¹ on April 21, 2011. (#137).
 2 As a result, the Court held a status conference with the parties on May 17, 2011. (*See Min. of Status*
 3 *Conf.*, #141). At the status conference, the Court lifted the stay on this action and appointed counsel to
 4 represent Plaintiff in this matter. (*Id.*)

5 **2. Motion to Strike Plaintiff's Amended Complaint (#127)**

6 Defendant Naphcare argues that Plaintiff's Amended Complaint (#121) should be stricken from
 7 the record because Plaintiff has not been granted leave to file an amended complaint. (#127). The
 8 Court finds that Plaintiff improperly filed his amended complaint without leave from the Court to do so.
 9 As a result, the Court will strike the amended complaint (#121).

10 Because the stay in this matter has recently been lifted and counsel recently appointed, however,
 11 the Court will grant Plaintiff 45 days from the date of this order to file a motion to amend his
 12 complaint.

13 **2. Motion to Restore Copy Privileges (#129)**

14 Plaintiff asks the Court to order the Nevada Department of Corrections ("NDOC") to restore his
 15 prison copy privileges. (#129). The Court will deny this request without prejudice because the Court
 16 previously ordered the NDOC to increase Plaintiff's prison copy account limits in March 2011 and
 17 recently appointed counsel to represent Plaintiff. Accordingly,

18 **IT IS HEREBY ORDERED** that Defendant Naphcare, Inc.'s Motion to Strike Plaintiff's
 19 Amended Civil Rights Complaint (#127) is **granted**.

20 **IT IS FURTHER ORDERED** that Plaintiff shall have until **July 5, 2011** to file a motion to
 21 amend his complaint.

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 26 ¹ The Ninth Circuit dismissed Plaintiff's appeal of Judge Hunt's order dismissing some
 27 defendants named by Plaintiff's initial complaint, stating that the "dismissal of fewer than all of the
 28 defendants is not appealable." (#137). Plaintiff's appeal of the order denying his motion for preliminary
 injunction remains pending before the Ninth Circuit. (*Id.*)

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GEORGE FOLEY, JR.
UNITED STATES MAGISTRATE JUDGE

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UNITED STATES MAGISTRATE JUDGE